

**EXECUTIVE SESSION MINUTES
CITY OF ST. CHARLES, IL
CITY COUNCIL MEETING
MONDAY, APRIL 6, 2009**

Members Present: Silkaitis, Penny, Carrignan, McGuirk, Turner, Martin, Krieger, Bessner and Richards

Members Absent: Stellato

Others Present: Mayor Donald P. DeWitte; City Administrator Brian Townsend, Fire Chief Mullen, Police Chief Lamkin, Attorney Gorski

1. Call to Order

The meeting was convened by Mayor DeWitte at 7:26 p.m.

2. Pending Litigation

Chief Mullins presented to following information on the Tri-Com Water Problems

**TRI-COM WATER PROBLEMS
Time-Line of Events**

April 2008

- Ground water seepage into basement
- Sump pumps run continuously for 2 months
- Final insurance settlement for damage \$18,765
- Group consisting of Trotter & Associates, Tom Huddleston, and Testing Service Corporation retained to evaluate problem
- Concluded the water table had risen due to heavy spring rains and larger than normal snow melt
 - Report received on September 3, 2008
 - Recommended installation of a sub-floor drainage system
- MIC estimates cost of \$33,767 for minimal subfloor drainage system, September 9, 2008

September 2008

- Sept. 13-14 rain event
- Significant damage to facility
- Structural Engineer determines building safe, Johnson Wilbur Adams
- 9-1-1 operations temporarily moved to Sheriff's office while work continued to stabilize situation.

October 2008

- Trotter and Associates retained to develop plans for a complete interior sub-floor drainage system. \$77,500
 - Recommended options
 - Cutoff trench around the structure
 - Installation of a flat panel drainage system on exterior of foundation
 - Install aggressive sub-floor drainage system with larger sump pumps
 - Raise Basement
- Initial estimates for repair and restoration \$1,265,059.00
- Board selected a modified action plan of the sub-floor drainage system with larger pumps for \$634,265.40
- Board approves installation of larger sump pumps to reduce the reliance on rented portable pumps

January 2009

- Architectural Firm FMG selected to design interior restoration above basement floor, \$9,500.
- Sub-contractor to Trotter

March 2009

- Engineering & architectural plans to St. Charles for review.
- Final insurance settlement agreement, \$235,245
- Insurance company open to subrogating the claim with Tri-Com
- Original building contractor and architect potentially liable
- Attorney Tim Rueland retained to investigate documents and recommend a course of action, \$5,000.

Present Circumstances

Current Situation

- Decision whether or not to litigate not finalized.
- Want to retain a vendor to complete repair work
- RFP vs. bid process
 - RFP requires 2/3 vote of all three City Councils to waive State bidding requirements.
 - RFP:
 - Complex projects
 - Broader scoring criteria
 - Ability to negotiate
- Construction budget and increased contributions by member agencies to cover the shortfall need to be approved by all three City Councils.
- Determine contribution assessment.
- Resolution will include;
 - Approval of construction budget

- Authorization of Tri-Com Board to contract and make changes
- RFP approval

Economics

YTD Expenses

April Repair Expenses	\$ 22,175.91	
September Repair Expenses	<u>\$175,597.50</u>	
	\$197,773.41 (expenses paid to date)	

Estimated Future Project Costs(per Trotter)	<u>\$723,916.25</u>	\$723,916.25
TOTAL REPAIR EXPENSES (estimate)	<u>\$921,689.66</u>	

Insurance Settlement Recovered	\$283,408.76	
Minus set aside for furniture replacement	<u>\$ 10,336.00</u>	
Available Insurance Money	\$273,072.76	
Wireless Tax Reimbursement	<u>\$213,211.00</u>	
Available Monies	\$486,283.76	- <u>\$486,283.76</u>
Potential shortfall to be funded by Cities		<u>\$237,632.49</u>

Ald. McGuirk asked what is the insurance settlement? Ans: The settlement will pay for damage not fix the problem. The settlement is from the Tri-Com insurance.

Ald. Richards asked how confident are we that the problem can be fixed?

Chief Mullins answered, the water table is higher than originally predicted given the amount of rain from last summer. The large pumps are maintaining the problem.

Ald. Carrignan asked if we can just fill the basement so the building is on a slab?

Chief Mullins responded, yes it has been considered. This solution would require expanding the building footprint.

Ald. Carrignan asked if we have more leverage with the RFP process why not use it. Also he asked if we would be able to get the approval of the other City Councils.

Brian Townsend responded that we are comfortable with one other city but not sure about the other.

Chief Mullins added that information has been given to all cities.

Alder. Turner added that during the building process, any changes to design are very gray and some signatures are missing. However, changes were openly discussed. He also added that the increase to the footprint would cost about \$1,000,000.

Chief Lamkin stated that the basement contains phone lines and generators that would be costly to move. He also added that Attorney Tim Rueland is familiar with construction

documentation and will be able to give his best estimate on how to proceed. Mr. Rueland will have a report for the board.

Alder. Penny asked if mold would be a problem.

Chief Mullins responded that it would have to be cleaned for mold as well.

Alder. Silkiatis asked if the water table is the problem, why rebuild the basement.

Mr. Townsend answered that other administrations want to try engineered solutions before expanding.

Chief Lamkin said the basement fill in was presented early on in the process. In addition the mechanical equipment will need a crawl space and still need ability to access. And sump pumps will be needed.

Alder. Turner asked what will the final costs be.

Chief Lamkin responded we should know more in April.

Alder Carrignan asked if this was in our current budget.

Mr. Townsend said no, not yet.

3. Adjournment

Motion by Ald. Penny second by Carrignan to adjourn meeting at 7:53 p.m.

Voice vote: unanimous

**EXECUTIVE SESSION MINUTES
CITY OF ST. CHARLES, IL
CITY COUNCIL MEETING
MONDAY, OCTOBER 3, 2011**

Members Present: Stellato, Monken, Carrignan, Payleitner, Turner, Rogina, Martin, Krieger, Bessner, Lewis

Members Absent: None

Others Present: Mayor Donald P. DeWitte, Attorney Jones, Brian Townsend, Mark Koenen, Kathy Livernois and Chris Aiston

1. Call to Order

The session was convened by Mayor DeWitte at 7:30 p.m.

3a. Property Acquisition – Sale of Land Holdings/Surplus Properties

Brian: Here's some background on this item. We went through a process this last year where we saw a lot of feedback from the community and employees on things we could do to basically improve our financial position. Things we could do to reduce expenditures and ways we could increase revenues. The Council adopted certain recommendations/certain ideas they directed staff to do. One of those ideas was to sell off some surplus land holdings or surplus properties that we have. Dunham Hunt is certainly one of those and Chris has been working to attain appraisals for some of the other parcels that were identified. You also recall that we did discuss specifically the Langum Park property at the mid-year retreat and the consensus at that point was you wanted to see that property remain as open space and it should be transferred either to the forest preserve or the park district. Just to refresh that conversation, the park district has said no, the forest preserve district is still considering that and Phil Lewis is carrying the ball for us at the forest preserve district trying to get some traction there. So that property we won't spend so much time on this tonight, but there are appraisals on three or four other parcels that Chris is going to summarize and then we are looking for some direction as to how we should proceed to advertise these properties for sale or not.

6. Adjournment

The executive session was adjourned at 8:40 p.m.

Nancy Garrison, City Clerk

**EXECUTIVE SESSION MINUTES
CITY OF ST. CHARLES, IL
CITY COUNCIL MEETING
TUESDAY, SEPTEMBER 4, 2012**

Members Present: Stellato, Monken, Carrignan, Payleitner, Turner,
Rogina, Martin, Krieger, Bessner, and Lewis

Absent:

Others Present: Mayor DeWitte, Brian Townsend, Attorney Good, and Mark
Koenen

1. Call to Order

The session was convened by Mayor DeWitte at 8:05 p. m.

2. Pending Litigation

Mark Koenen: The topic I wanted to discuss tonight has to do with our water well 3 & 4 Radium Removal Project located here at Riverside Drive. It has to do with the closing out of that contract and I want to give you some historical background and bring forward what I think our recommendation is for your consideration.

Several months ago there was a lien filed by a sub-contractor and that lien was from TriCon, they had done concrete work on the plant and filed against the general contractor, EVS. The City of St. Charles was named in that and we never understood why we were named in the lawsuit because the lien was between the sub and the general. But we were pleased to be there because we knew that we were getting to the point in the contract where we would be assessing liquidated damages; because in the contract that was written they had a completion date. They had to have that project completed and all the paperwork and all the documents completed by a completion date of August 6, 2011. We knew we would be seeking money from them because at the end of the contract that money needed to come from the retainage of the contract. The retainage was in the value of \$280K and the lien that TriCon had placed on the general was over \$300K. So working with Gorski/Good and also with Phil Leutkehans we got involved with the matter and the long and short of it is that through some extended conversations with EVS and some dialogue about when they substantially completed the project vs. when the plant was in final form including all the paperwork, we were running water through that facility as of October 12, 2011, but that still is 66 days after that completion date. So we assessed liquidated damages of \$1,710 per day which brings us to about \$112K of liquidated damages to be assessed on EVS. The City of St. Charles and EVS along with our engineering consultant EEI believe that is probably a reasonable compromise in terms of resolving this conflict. That money would come from the retainage that we still had open on the contract and take that money and put it in an escrow because the litigation is still open regarding the subcontractor and general contractor lawsuit in case there would

be a complication that could come up in the proceeding. So from a staff perspective, what we would be looking from you is consensus to move ahead and close this contract out, we would assess the liquidated damages, we would write it up in terms of Change Order #7 which is actually on the agenda tonight for consideration after this conversation, and to move ahead. Any questions I would be happy to answer and I know that Tom has got some legal perspective on this too.

Atty. Good: In a general lien against public funds in a Public Works project, statute does not provide for naming the City, in this instance, as a party. The statute only requires that the City be served a copy because under statutory obligations once a notice is received, the City is required to hold onto any moneys that come due and owing to the contractor pending the outcome of the litigation. What became important is due and pending and we got a claim for funds in the amounts described by Mark; so it was fortuitous in part that the City was named, that got the discussions going, and the contractor agreed that we were entitled to those funds.

Mayor DeWitte: And have they done that?

Atty. Good: Yes, I have a copy that was signed. To be safe a recommendation, as Mark suggested, is to get the change order signed, deposit the funds until the court presumes the statute, and get the court to issue an order dismissing us, and wait the 30-day appeal period; at which time the City can proceed and use the funds.

Ald. Rogina: On payment of the liquidated damages, is that in effect in the contract between us and EVS?

Atty. Good: Yes, now they have statutory and bond provisions securing the work that was performed, so the City is secured and guaranteed.

Mark: As I understand some of the bond money may be used to resolve some of the lien issues as well.

Brian: To our knowledge EVS is still solvent. There is a warranty period on the building but for all intents and purposes there is a contract.

Ald. Rogina: I'm thinking of Ed referencing the subcontractor as frivolous and nameless?

Atty. Good: We are fortuitous. The statute says for those few times you see those types of lien claims they generally laugh because of the municipality is named. It's not necessary; the statute doesn't require it. The lien exists on the money regardless of whether we are served or not as long as we become aware of the litigation – the claim. This procedure, if it adopts standard specs, it is the typical process in anything governed by standard specs in Illinois contracts of liquidated damages. It was nice that the City

with Mark and staff direction, got this resolved before it went any further satisfying our liquidated damages and getting the contractor to agree with a change order.

All: Move forward.

3. Adjournment

The executive session was adjourned at 8:15 p.m.

Tina Nilles, Deputy City Clerk

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Nancy Garrison, City Clerk

**EXECUTIVE SESSION MINUTES
CITY OF ST. CHARLES, IL
CITY COUNCIL MEETING
MONDAY, MAY 18, 2015**

1. Call To Order By Mayor Raymond Rogina At 8:27 P.M.

2. Present: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Krieger, Gaugel
Bessner, Lewis
Absent: NONE

Others Present: Mayor Rogina, Mark Koenen, John McGuirk, Steve Gaugel, Melissa Wolf

Mark Koenen

There are two topics for tonight in regards to personnel. One, is an update on director of IS. An offer has been made and accepted by Larry Gunderson (with work experience from Naperville). Our offer is contingent on finalizing paperwork, medical testing, and drug testing, reference checks. Hoping to receive that information by Wednesday of this week. We will have an announcement very shortly. Moving ahead with that. Peggy will leave June 30, which gives us a seven-day overlap.

Alder. Krieger

He has some experience over in our IS department.

Mark Koenen

Yes, he was as a consultant.

4. Adjournment

The executive session was adjourned at 9:07 p.m.

Nancy Garrison, City Clerk

**MINUTES FROM THE EXECUTIVE SESSION OF THE
GOVERNMENT OPERATIONS COMMITTEE MEETING
MONDAY, FEBRUARY 16, 2004**

Members Present: Chair. Stellato, Aldr. Silkaitis, Lemke, Penny, DeWitte, McGuirk, Martin, Krieger, Richards, Grathoff

Members Absent: None

Others Present: Mayor Sue Klinkhamer; City Attorney Tim O'Neil, Larry Maholland, Bob Hupp, Mark Koenen

The executive meeting was convened by Chair Stellato at 7:20 p.m.

Litigation

Glynn Amburgey, Electric Services Superintendent, joined the meeting at approximately 7:29 p.m.

Larry Maholland brought up a discussion on the 138 kV project. ComEd is going to withdraw their petition for the Randall Road project because they feel the newly proposed 34 kV system will solve the problem. We don't necessarily think that is true, so we talked with Mike May today to get his thoughts on this. Our concern is that if they withdraw that proposal, we will lose all of our leverage in terms of getting any kind of a settlement out of the agreement we have with them. Mr. May suggested we maintain some leverage and keep the project before the ICC.

City Attorney Tim O'Neil reported that we were supposed to go to trial last week, but AMLI's lawyer asked to continue the trial to April.

Adjournment

Motion by Aldr. Penny, seconded by Aldr. Silkaitis, to adjourn execution session and resume regular session of the Government Operations Committee. Voice vote: unanimous. Motion carried.

Executive Session adjourned at 7:43 p.m.

Daniel P. Stellato
Committee Chair

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**EXECUTIVE SESSION MINUTES
CITY OF ST. CHARLES, IL
GOVERNMENT OPERATIONS COMMITTEE MEETING
MONDAY, JUNE 1, 2015-2**

Members Present: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Martin, Krieger, Bessner, and Lewis

Absent:

Others Present: Mayor Raymond P. Rogina, Atty. John McGuirk, City Administrator Mark Koenen, Peter Suhr, Julie Herr, Denice Brogan

3. Property Acquisition

Mark: Peter and I have had a conversation with a Mr. Smith who wants to sell a parcel at 1025 Ronzheimer.

Ald. Krieger: Would he consider going to a group that wants to build for someone like Habitat for Humanity or School District Trade Center or the Welcome Home Vet?

Ald. Lemke: Is that a buildable lot?

Ald. Krieger: Was the house torn down or has it always been vacant?

Mark: We have no record on file. From a Public Works and Community Development point of view, we don't have any purpose to acquire this land. There's no vision for this piece of property. I like the suggestions you made. He's looking to get rid of it because he wants to get rid of taxes.

All: Let him donate it.

Mark: I will call Mr. Smith with these suggestions.

4. Adjournment

The executive session was adjourned at 8:43 p.m.

Nancy Garrison, City Clerk

**EXECUTIVE SESSION MINUTES
CITY OF ST. CHARLES, IL
GOVERNMENT SERVICES COMMITTEE
MONDAY, AUGUST 24, 2015**

Members Present: Chairman Turner, Aldr. Stellato, Aldr. Silkaitis, Aldr. Payleitner, Aldr. Lemke, Aldr. Bancroft, Aldr. Krieger, Aldr. Gaugel, Aldr. Bessner, Aldr. Lewis

Members Absent: None

Also Present: Mark Koenen, City Administrator; Peter Suhr, Director of Public Works; Karen Young, Assistant Director of Public Works – Engineering; Kristi Dobbs, Recording Secretary

1. Call to Order

City Administrator Mark Koenen convened the meeting at 7:25 p.m.

2. Land Acquisition

Mr. Koenen: We are here to talk about a piece of property.

Mrs. Young: This piece of property is located within the 7th Avenue Creek area. This particular piece of property is currently owned by Kane County; they have been paying the taxes on this property for several years. The property is located on 7th Avenue at the intersection of Washington Avenue. The acquisition of this property does include the creek that runs through that area so with the acquisition of this property, we would have the right to maintain it. It is currently in their auction book, but we contacted their attorney and they said if the City wanted to purchase the property, they would take it off the auction and we could purchase it for the asking price of \$507.

Aldr. Lewis: What are the taxes on it?

Mrs. Young: It is tax exempt at this point because the County owns it, but the \$507 probably equates to what they paid in taxes over the last three years.

Chairman Turner: There isn't any plan to connect Washington; this is just to be safe?

Mrs. Young: Yes. We are keeping an eye for properties as they go up for sale. We actually contacted the County to see if they wanted to donate it, but they had already purchased it for taxes.

Committee as whole: Yes, go for it; purchase the property.

3. Adjournment

Executive Session was adjourned at 7:28 p.m.

Nancy Garrison, City Clerk